

to the claims can be found at least on pages 22 and 23 of the specification. No new matter has been added as a result of these amendments. Claims 57-60 are presently before the Examiner. Applicants respectfully request reconsideration and reexamination of those claims in their presently amended form.

#### Rejections Under 35 U.S.C. § 112

The Examiner has rejected claims 57 and 59 under the second paragraph of 35 U.S.C. § 112 as allegedly being indefinite. In view of the amendments to the claims, these rejections should no longer apply.

#### Double Patenting

The Examiner has rejected claims 57 and 58 under 35 U.S.C. § 101 as allegedly claiming the same invention of that of claims 1 and 2 of U.S. Patent No. 5,627,024 (the "024 Patent"). Amended claim 57 provides a recombinant lambdoid bacteriophage vector comprising a nucleotide sequence that defines the lambdoid elements for replication and packaging and encodes a conditionally suppressible cistron for expression of a matrix anchor and a fusion protein. The encoded fusion protein comprises a promoter for the cistron, a first translatable sequence that encodes a matrix anchor protein, a first ribosome binding site, a second translatable sequence and a suppressor termination codon. It can be seen from the amended claim that the presently claimed invention includes nucleotide sequences that encode a matrix anchor protein. Matrix anchor proteins are defined in detail beginning at page 22 of the specification. As set forth in the specification, the matrix anchor protein can be selected from any proteins displayed on the surface of the phage. Such surface

express proteins include head and tail proteins. Head proteins include proteins designated pE, pD, pB, pW, PFII, pB, pXI and pX2 while tail proteins include pJ, V, G, M and T. It can be seen from this teaching, that the presently claimed invention differs from that of the '024 Patent: the presently claimed invention refers to a vector that encodes a matrix anchor protein while claims 1 and 2 of the '024 Patent encode a pV polypeptide. A pV polypeptide is a subspecies of a tail protein, which is, in itself, a species of an anchor matrix protein. It can thus be seen from the difference in definitions between matrix anchor protein and pV polypeptide, that the presently claimed invention is of substantially broader scope than the invention claimed in the '024 Patent.

In view of the above, Applicants respectfully submit that claims 57 and 58 of the instant invention do not claim the same invention as that of claims 1 and 2 of the '024 Patent. Applicants therefore respectfully request withdrawal of this rejection.

The Examiner has further rejected claims 59 and 60 under the judicially created doctrine of double patenting over claims 9 and 11 of U.S. Patent No. 5,627,024. In view of the amendment to claim 59 and the rationale set forth above defining the differences between pV polypeptides and matrix anchor proteins, Applicants respectfully submit that this rejection is not well taken. It is noted with regard to all of these rejections that the Examiner states on pages 3 and 4 of the Action that he was analyzing the claims as though pV was used synonymously with matrix anchor. It is not.

SUMMARY

In view of the amendments to the claims and for the reasons set forth above, Applicants respectfully submit that the claims are now in a condition of allowance. An early notification to that effect is hereby earnestly solicited.

Respectfully submitted,

4-12-00

DATE

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☒ [X] Attorney or agent of  
record  
☐ [ ] Filed under §1.34a